

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

No. 2:12-CV-16-F

MARY E. LYONS-FELTON,

Plaintiff,

vs.

EDENTON-CHOWAN BOARD OF
EDUCATION, DR. ALLAN SMITH,
LESLIE MICHELE MADDOX, RICHARD)
A. BROWDER, JR., EUGENE JORDAN,)
JEAN BUNCH, JOHN GUARD,)
EDWARD GILBERT BURROUGHS, and)
GEORGE WINBORNE DALE,)

Defendants.

ORDER

This matter is before the court on the Motion to Dismiss [DE-26] filed by Defendants Edenton-Chowan Board of Education, Dr. Allan Smith, Leslie Michele Maddox, Richard A. Browder, Jr., Eugene Jordan, Jean Bunch, John Guard, Edward Gilbert Burroughs, and George Winborne Dale, and the Motion to Strike Portions of Plaintiff's Second Amended Complaint [DE-38] filed by Defendant Edenton-Chowan Board of Education.

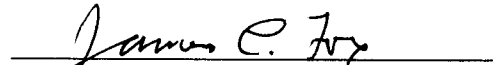
Defendants filed the Motion to Dismiss on September 14, 2012, arguing (1) Plaintiff's fifth, ninth, tenth, eleventh, and twelfth claims for relief are barred by the doctrine of res judicata; (2) the court lacks subject matter jurisdiction over Plaintiff's third and tenth claims for relief; and (3) all of Plaintiff's claims should be dismissed for failure to state a claim. Thereafter, Plaintiff filed a Notice of Voluntary Dismissal [DE-33] and Second Amended Complaint [DE-34], through which she voluntarily dismissed all her claims against the individual Defendants and dismissed all of her claims against Defendant Edenton-Chowan Board of Education except for her claims arising out Title VII

of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* In her Response [DE-35] to the Motion to Dismiss, Plaintiff asserted that the contents of her Second Amended Complaint differ substantively from the contents of her First Amended Complaint, and the Defendants' arguments raised in the Motion to Dismiss the First Amended Complaint are now moot. The court agrees, and the Motion to Dismiss [DE-26] is DENIED as moot.

Defendant Edenton-Chowan Board of Education, the sole remaining defendant, has also filed a Motion to Strike Portions of the Second Amended Complaint [DE-38]. The parties have since filed a Joint Stipulation and Consent [DE-44], wherein the parties state that (1) Plaintiff agrees to remove specified portions of the Second Amended Complaint, (2) Defendant agrees to withdraw its Motion to Strike, and (3) the attached revised Second Amended Complaint "constitutes the current and operative Complaint in this matter as of the date filing." Joint Stipulation [DE-41]. Based on this Joint Stipulation, the court hereby ORDERS that the Motion to Strike [DE-38] is deemed withdrawn. The Clerk of Court is DIRECTED to file the revised Second Amended Complaint [DE-44-2] and accompanying exhibits [DE-44-3 through DE-44-8] as a separate docket entry.

SO ORDERED.

This the 10th day of December, 2012.


James C. Fox
Senior United States District Judge